

Key Provisions of Proposed Agreements - A Summary

1. How do the agreements protect the City's interests?

- The basic goal of the agreements and the premise for the City pursuing the agreements is to protect the City's interests.
- Without the agreements, the State could potentially proceed with the project, provide no explicit protections to the City and avoid all significant City regulations. The City's regulatory authority is all derived from the State and could thus be pre-empted.
- The agreements provide a number of valuable provisions and protections:
 - The City is indemnified for costs related to delay, third-party damage claims, environmental issues, etc;
 - The City is an "additional insured" on contractor policies;
 - The State is responsible for environmental remediation;
 - The City is given a real voice in the quality, design and cost of utility relocations;
 - Facilities turned over to the City will be built to City standards;
 - The State is responsible for extensive monitoring of settlement and deformation;
 - City facilities will be evaluated for potential damage due to settlement and steps taken to protect them from such damage (As discussed at previous briefings, similar provisions in the draft design-build contract will protect private properties.);
 - WSDOT's designs will be subject to SDOT review through street-use permits;
 - WSDOT will follow the City's urban design requirements and guidelines;
 - The agreements provide a dispute resolution process for potential conflicts between the City and the State;
 - and others . . .

2. How do the agreements allow for continued analysis of multiple alternatives, not just the deep-bore tunnel?

- The environmental review process is not yet complete. A Supplemental Draft Environmental Impact Statement (SDEIS), which will provide an evaluation of the deep-bore tunnel alternative, in addition to other alternatives previously assessed, will be issued in September.
- The agreements specifically anticipate that the deep-bore tunnel might not be the selected alternative:

2.3 The PARTIES understand that environmental review of the proposed PROJECT is underway at the date of this Agreement and agree that if an alternative other than the Proposed Bored Tunnel is selected, this Agreement may be terminated pursuant to the provisions of Section 28 of this Agreement.

3. How do the agreements protect the City against cost overruns?

- The agreements are clear, throughout, that this is a State project and that WSDOT is responsible for paying the costs for its share of the program.
- Language clarifying the State's role appears multiple times in the agreements. For example:

WHEREAS, the PARTIES are entering into this Agreement on the assumption that the PROGRAM can and will be completed at or below the current WSDOT PROGRAM budget;

2.6 Each PARTY shall provide the funding and resources necessary to fulfill the responsibility of that PARTY as established in this Agreement.

10.1 The STATE shall provide necessary funding for all PROJECT costs as referenced in this Agreement without reimbursement from the City of Seattle, except for the CITY cost responsibilities established in this Agreement, in SCL Agreement UT01476, and in SPU Agreement UT 01474.

[The City cost responsibilities referenced here include the new waterfront open space and utility relocations.]

- Comparable statements could be included in the ordinance that authorizes the agreements.

4. Does approving the agreements imply that the City accepts the funding limitations stated by the Legislature?

- No, the Council has insisted that the agreement include an explicit statement that the City does not accept these terms.

*10.2 By entering into this Agreement, the CITY is **not** [emphasis added] waiving its position that the CITY and/or its citizens and property owners cannot be held responsible for any or all cost overruns related to the portions of the PROJECT for which the STATE is responsible.*

- Comparable language could also be included in the ordinance authorizing the agreements, to emphasize this point and make the Council's policy position ever more clear.

5. How will the funding needed for program elements of particular City interest, including portal-related improvements and the new surface Alaskan Way, be protected?

- The Council has stipulated a specific City role in the funding set-aside for these elements of the overall program.
- The mutual agreement of both the City and State will be needed to reduce funding for these elements below the current budget of \$380 million:

2.11 The PARTIES agree that the PROGRAM will not be complete until the elements in Exhibit D are completed. The PARTIES agree that the current WSDOT budget allocated for certain elements of the PROGRAM is reflected in Exhibit D. Future mutual agreement of the PARTIES shall be required in order to reduce the total budget allocation for the elements in Exhibit D.

EXHIBIT D TO MEMORANDUM OF AGREEMENT NO. GCA 6486

- 1. Relocated surface street within the Alaskan Way right-of-way from South King Street to Pine Street, a new surface street from the intersection of Pine Street and Alaskan Way to Battery Street, and connecting Alaskan Way to Elliott and Western Avenues;*
- 2. Demolition of the existing Alaskan Way Viaduct;*
- 3. North and south tunnel ventilation buildings;*
- 4. Re-establishment of the City street grid in the vicinity of the portals (e.g. Harrison, John, Thomas, and comparable southend streets); and*
- 5. Battery Street Tunnel decommissioning.*
- 6. Total WSDOT budget allocated for PROGRAM elements listed in lines 1 through 5 above: \$380 million.*

6. What role will City have in determining how tolls are established and how the impacts of diversion are considered when toll levels are evaluated?

- The Council has negotiated a role for the City in reviewing tolls before, during and after their initial imposition.
- A committee jointly appointed by the City and State will be charged with evaluating toll impacts and the potential to mitigate these impacts.
- The committee's evaluation will explicitly consider impacts in the context of the City's "Complete Streets" policy and the emphasis it puts on the need to serve multiple transportation modes, including bicycles, pedestrians, freight, transit and automobiles.
- The committee will make its recommendations to the Governor, State Legislature and State Transportation Commission – those responsible for setting the actual toll levels.

2.12 The PARTIES recognize that the STATE proposes to toll the bored tunnel as part of the PROJECT, if the tunnel is selected as the preferred alternative. The STATE agrees to evaluate and work with the CITY (in advance of tolls being imposed, during toll implementation, and for a mutually agreeable period thereafter) to identify mitigation strategies for the effects that tolling may have with respect to diversion of vehicular traffic from the PROJECT onto CITY Streets. The STATE agrees that such evaluation and mitigation shall include effects on both vehicular traffic circulation on CITY streets as well as effects on CITY's ability to achieve its "Complete Streets" policy goals articulated in CITY's Resolution No. 30915, including but not limited to making CITY streets function well for bicycles, pedestrians, freight, transit and automobiles. The PARTIES agree to establish an advisory committee to assess and make recommendations to mitigate traffic diversion impacts caused by tolling of the proposed bored tunnel. The committee will be composed of representatives from the STATE, the CITY, and downtown communities and businesses, and will provide its recommendations to the Governor, State Legislature and State Transportation Commission. The PARTIES will mutually agree on membership of the committee, and the frequency and structure of committee meetings. The meetings will be jointly facilitated by the CITY and the STATE.

- As highlighted in the presentation that follows, SDOT will control the mitigation strategies implemented on city streets, and a number of different potential strategies have already been identified.

7. Does Council retain authority to approve significant changes in the agreements?

- Yes. The agreements do not delegate authority for WSDOT, SPU or City Light to change the terms of the agreement.
- The ordinance that authorizes the agreement would also require Council approval for any amendments and/or the cancellation of the agreements.